

REMARKS

- A. The specification was objected to for failing to include section headings. In response to this objection, Applicant respectfully points out to the Examiner that the Preliminary Amendment filed January 11, 2006 included section headings for insertion into the specification. Attached is a courtesy copy of the Preliminary Amendment filed January 11, 2006.
- B. The disclosure was objected to in the Office Action for containing embedded hyperlink and/or other form of browser-executable code. The appropriate embedded hyperlink and/or other form of browser-executable code have been removed by this Amendment and response.
- C. In the Office Action, the Examiner rejected claims 1-10 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In response to this rejection, the appropriate claims have been amended and new claim 11 has been added. Claims 1-11 now particularly point out and distinctly claim the subject matter which applicant regards as the invention. No new matter is being presented.
- D. In the Office Action, the Examiner rejected claim 1 under 35 U.S.C 101 as setting forth the recitation of a use, without setting forth any steps involved in the process, thus resulting in an improper definition of a process. In response to this rejection, claim 1 has been amended and now claims steps without recitation of use. No new matter is being presented.
- E. In the Office Action, the Examiner rejected claims 1-4, 6, 8 and 9 under 35 U.S.C. 102(b) as being anticipated by Mottram, WO 97/00444. In setting forth this rejection, the Examiner specifically states Mottram discloses, “[c]ondensation of moisture in the breath sample will form in the container, and the condensation will inherently reduce the microbial load of the sample as disclosed in the specification of the instant application.” However, Mottram infact discloses *reducing* the possibility of condensation forming by incorporating a temperature means. The Mottram disclosure specifically states, “[i]n some instances it may be necessary to control the temperature of the collected sample **in order**

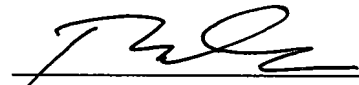
In the Application of:
Steffen SONNENBERG et al.
Serial No.: 10/564,158

to prevent loss of components by, for example, *condensation onto the walls of the container.*” (p.4, lines 4-6, emphasis added) Mottram even goes further to discuss means to combat this condensation formation by, for example, using a heating element. As such, Mottram teaches *against* condensing moisture from the breath sample to *reduce* the microbial load of the breath sample, as taught by applicant. Thus, Mottram can not anticipate the invention, as now claimed in independent claim 1 and dependent claims 2-4, 6, 8 and 9.

- F. In the Office Action, the Examiner rejected claims 5 and 7 under 35 U.S.C 103(a) as being unpatentable over Mottram. Claims 5 and 7 are ultimately dependent upon now amended independent claim 1 and are at least patentably distinct for the same reasons as claim 1.
- G. In the Office Action, the Examiner rejected claim 10 under 35 U.S.C. 103(a) as being unpatentable over Sharma et al. in view of Mottram. In setting forth this rejection, the Examiner acknowledged that Sharma et al. fails to disclose the method according to claim 1, citing Mottram. As discussed above, Mottram fails to teach the method as now claimed in claim 1 and therefore claim 10 is patentably distinct over Sharma et al. and Mottram.

Prompt and favorable action is solicited.

For the Applicants,

 12/3/2007
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Courtesy Copy

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

50323

In the Application of:)	
Steffen SONNENBERG et al.)	
)	
Filing Date: Herewith)	Art Unit: Not Assigned
)	
Serial No. New Application)	Examiner: Not Assigned
)	
FOR: SENSORIC METHOD FOR)	
EVALUATING BREATH)	

PRELIMINARY AMENDMENT

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

January 10, 2006

Dear Sir:

Before calculation of the applicable filing fee, please amend the application as follows:

In the Application of:
Steffen SONNENBERG et al.
Serial No.: New Application

IN THE SPECIFICATION:

On page 1 at line 1, please insert -- **Field of the Invention** --.

On page 1 at line 5, please insert -- **Background of the Invention** --.

On page 4 at line 3, please insert -- **Summary of the Invention** --.

On page 6 at line 5, please insert -- **Detailed Description of the Invention** --.

On page 12 at line 4, please insert -- **Examples** --.

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IN THE CLAIMS:

1. (Original) A method of evaluating the breath of a test subject, comprising the following steps:
 - a) collection of a breath sample from the test subject in a container,
 - b) reduction of the microbial load of the breath sample contained in the container, and then
 - c) evaluation by a tester of the breath sample collected in the container.
2. (Currently Amended) A method according to claim 1, ~~characterised~~ characterized in that, in step a), the container is filled with breath by the test subject against atmospheric pressure by exhalation.
3. (Currently Amended) A method according to claim 1 ~~one of the above claims~~, ~~characterised~~ characterized in that the volume of the container is variable, the container preferably being collapsible.
4. (Currently Amended) A method according to claim 1 ~~one of the above claims~~, ~~characterised~~ characterized in that the container possesses an internal surface made of an odourless material.
5. (Currently Amended) A method according to claim 1 ~~one of the above claims~~, ~~characterised~~ characterized in that the container is filled with 20 ml to 7 l of breath in step a).
6. (Currently Amended) A method according to claim 1 ~~one of the above claims~~, ~~characterised~~ characterized in that the microbial load is reduced by condensation of moisture from the breath sample in the container.
7. (Currently Amended) A method according to claim 1 ~~one of the above claims~~, ~~characterised~~ characterized in that the temperature of the breath sample is adjusted to a value of 20°C to 40°C before performing step c).

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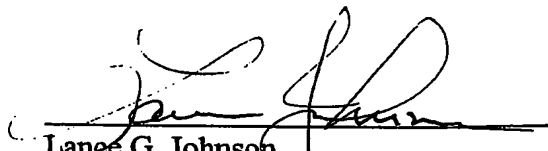
8. (Currently Amended) A method according to claim 1 ~~one of the above claims~~, characterised ~~characterized~~ in that the test subject fills the container in step a) by exhaling through the mouth, and preferably after inhaling through the nose.
9. (Currently Amended) A method according to claim 1 ~~one of the above claims~~, characterised ~~characterized~~ in that the breath sample is anonymised prior to evaluation.
10. (Currently Amended) A method of evaluating an oral care product, comprising the following steps:
- a) taking a first breath sample from a test subject by a method according to claim 1 ~~one of~~ ~~claims~~ ~~[[1 - 9]]~~,
 - b) subsequently administering the oral care product to the test subject,
 - c) taking an additional breath sample from the test subject using a method according to claim 1 ~~one of~~ ~~claims~~ ~~[[1 - 9]]~~ at a pre-selected time after administering the oral care product, and
 - d) comparing ~~comparison of~~ the first and the additional breath ~~sample~~ samples by a tester.

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The amendments presented herein are intended to remove multiple dependency and clarify the nature of the invention. No new matter is presented.

For the Applicants,


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